

§ 519.16 Applicability.

(a) These provisions apply only to those Department of the Army rules or portions thereof that:

- (1) Are promulgated after September 7, 2004;
- (2) Must be published in the FEDERAL REGISTER in accordance with § 519.9;
- (3) Have a substantial and direct impact on the public or any significant portion of the public; and
- (4) Do not merely implement a rule already adopted by a higher element within the Department of the Army or by the Department of Defense.

(b) Unless otherwise required by law, the requirement to invite advance public comment on proposed rules does not apply to those rules or portions thereof that:

- (1) Do not come within the purview of paragraph (a) of this section;
- (2) Involve any matter relating to a military or foreign affairs function of the United States that has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy;
- (3) Involve any matter relating to Department of the Army management, personnel, or public contracts, e.g., Armed Services Procurement Regulation, including nonappropriated fund contracts;
- (4) Constitute interpretative rules, general statements of policy or rules of organization, procedure or practice; or
- (5) The proponent of the rule determines for good cause that inviting public comment would be impracticable, unnecessary, or contrary to the public interest. This provision will not be utilized as a convenience to avoid the delays inherent in obtaining and evaluating prior public comment. See also § 519.22.

§ 519.17 Procedures when proposing rules.

(a) A description of the proposed rule will be forwarded to RMDA (AHRC-PDD-RP) for regulatory and OMB review. The RMDA will provide a Regulation Identifier Number (RIN) used to identify and report the rule in the Unified Agenda to the proponent once OMB has approved the rule for publication in the Proposed Rules section of

the FEDERAL REGISTER. Proposed rules that have unresolved issues will not be published in the FEDERAL REGISTER.

(b) The preamble and the proposed rule will be prepared by the proponent. Preparation of the preamble and the proposed rule will be in accordance with guidance contained in the FEDERAL REGISTER Handbook on Document Drafting.

(c) Public comment will be invited within a designated time, not less than 60 days, prior to the intended adoption of the proposed rule.

(d) Rulemaking proponents will submit the original and three copies of the proposed rule and the preamble in the prescribed format to RMDA (AHRC-PDD-RP). The RMDA will ensure that the approved rules comply with executive and legislative requirements, and have the necessary coordination with OMB prior to publication. Upon OMB approval, the RMDA will certify and submit the documents to the Office of the Federal Register for publication as a proposed, interim, or final rule, as applicable.

(e) If no action has occurred within 1 year of publication, the proposed rule will be considered for withdrawal, unless the proponent provides justification to RMDA (AHRC-PDD-RP). If the proponent determines that the proposed rule must be withdrawn, the proponent will submit a document to RMDA (AHRC-PDD-RP) to be published in the FEDERAL REGISTER withdrawing the proposed rule. The withdrawal of the proposed rule will be reported in the next edition of the Unified Agenda.

(f) Civil Works projects under the ASA (CW) will submit updated and proposed Unified Agenda items to AASA.

§ 519.18 OMB Control Number.

Each rule OMB reviews under the Paperwork Reduction Act is assigned an OMB control number which becomes its identifier throughout its life.

§ 519.19 Consideration of public comment.

(a) Following publication of a notice of proposed rulemaking, all interested persons will be given an opportunity to participate (60 days) in the rulemaking through the submission of written